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07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

09 ANTOLIN ANDREW MARKS,)
10) CASE NO. C08-0225-RAJ-JPD
Petitioner,)
11)
v.) ORDER DENYING PETITION FOR
12) WRIT OF HABEAS CORPUS
A. NEIL CLARK,)
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Respondent.)
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The Court, having reviewed Petitioner's 28 U.S.C. § 2241 petition, all papers and exhibits in support and in opposition to that petition, the Report and Recommendation (Dkt. # 22) of the Honorable James P. Donohue, United States Magistrate Judge, Petitioner's objections to the Report and Recommendation, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation. Although the court adopts the Report and Recommendation in its entirety, it notes additional bases for reaching the same conclusion. First, even if Petitioner were correct that he had been released, and that his release into the custody of Pierce County somehow violated the mandatory detention provision of the Immigration and Nationality Act, 8 U.S.C. § 1226(c)(1), he has cited no authority for the proposition that the remedy for such a violation is to release Petitioner from custody. The court finds it unlikely, to say the least, that Congress intended to reward the wrongful release of persons that it deemed subject to mandatory detention by releasing those


01 persons after they had been detained again. Second, many of Petitioner's
02 arguments arise from his assertion that he was transferred to Pierce County so
03 that the Northwest Detention Center could dispose of civil and habeas
04 proceedings pending there. Even if the court were to accept these allegations as
05 true, which it does not, Petitioner fails to cite any authority supporting the notion
06 that releasing him from custody is an appropriate remedy for this conduct.

07 (2) Petitioner did not submit his opposition to the government's revised motion to
08 dismiss until after the deadline Judge Donohue set. Judge Donohue therefore did
09 not have the benefit of the opposition when he issued the Report and
10 Recommendation. The court has considered Petitioner's opposition brief in its
11 entirety, along with his objections to the Report and Recommendation. No
12 argument Petitioner presented therein is a persuasive basis to decline to adopt the
13 Report and Recommendation.

14 (3) Petitioner's Petition for Writ of Habeas Corpus, Dkt. 6, is DENIED,
15 Respondent's Motion to Dismiss, Dkt. 21, is GRANTED, and this action is
16 DISMISSED with prejudice; and

17 (4) The Clerk is directed to send copies of this Order to the parties and to Judge
18 Donohue.

19 DATED this 15th day of January, 2009.

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21 
22 The Honorable Richard A. Jones
23 United States District Judge
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